



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

September 25, 1953

Hon. Geo. W. Cox, M.D.
State Health Officer
Texas State Department
of Health
Austin, Texas

Letter Opinion Number MS-95

Re: Necessity for city or county
to obtain a State license to
operate a convalescent or
nursing home.

Dear Dr. Cox:

In your opinion request dated September 8, 1953, you ask us to advise you whether a city or county operating a convalescent or nursing home is required under the law to obtain a license.

House Bill No. 609, Chapter 413, Acts of the 53rd Legislature, 1953, defines in Section 2(a) "institution" as follows:

"... an establishment which furnishes (in single or multiple facilities) food and shelter to four (4) or more persons unrelated to the proprietor, and, in addition, provides minor treatment or services which meet some need beyond the basic provision of food, shelter, and laundry. . . ."

This definition clearly includes convalescent or nursing homes.

This same statute defines "government unit" in Section 2(c) as "the State or any county, municipality or other political subdivision, or any department, division, board, or other agency of any of the foregoing."

Section 3 of this statute reads as follows:

"After the effective date of this law no person or governmental unit, acting severally or jointly with any other person or governmental unit, shall establish or conduct or maintain an institution, as defined herein, in this State without obtaining a license pursuant to the provisions of this Act."

Since the statute makes no exception which could include convalescent or nursing homes, and since the statute patently, openly, and obviously includes a city or a county or any agency

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of a city or county, there is no doubt that the Legislature intended that a city or a county obtain a license before operating an institution as defined in Section 2(a). Therefore, it is the opinion of this office that a city or a county must obtain a license from the Licensing Agency before operating a convalescent or nursing home.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By 
Bradley Bourland
Assistant

BB:mg